

338.1  
#63fr  
939  
cop. 2

STATE OF ILLINOIS  
HENRY HORNER, Governor



THE LIBRARY OF  
NOV 3 1938  
UNIVERSITY OF ILLINOIS

# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

Issued by  
THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

[Printed by authority of the State of Illinois]



STATE OF ILLINOIS  
HENRY HORNER, Governor

THE LIBRARY OF THE  
NOV 3 1939  
UNIVERSITY OF ILLINOIS



# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

J. H. LLOYD  
Director of Agriculture

Issued by  
THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

C. HERMAN SCHULTE  
Superintendent



338.1  
IL 63 fr  
1939  
Cap. 2

## CONTENTS

### Part I

	Page
Sec. 1. Definitions .....	7
Sec. 2. Application for license. Fee.....	8
Sec. 3. Commission Merchant's Bond ....	9
Sec. 4. Issuing Licenses (and conditions thereunder) .....	10
Sec. 5. Refusal to grant or suspending or revoking a license previously granted .....	11
Sec. 6. Court appeal for denying, suspend- ing or revoking license.....	12
Sec. 7. Violations of this Act.....	12
Sec. 8. Liable for violation of Sec. 7.....	14
Sec. 9. Complaints .....	15
Sec. 10. Complaints by non-residents.....	16
Sec. 11. Determining damages and pay- ment thereof .....	17
Sec. 12. Recovery of damages by court action .....	18
Sec. 13. 30 day time limit on entry of reparation order, Court costs...	19
Sec. 14. Automatic suspension of license..	20
Sec. 15. Service of order or summons.....	21
Sec. 16. Appeal to higher courts for final orders or judgments.....	21
Sec. 17. Keeping of accounts, records and memoranda by licensees, power of Department to inspect same..	22
Sec. 18. Holding hearings; witnesses, etc..	22
Sec. 19. Subpoena, Witness fees, and pay- ment thereof .....	23

30/1939 BH

30/39 div. dep. 1939 cont.

## CONTENTS—(Continued)

	Page
Sec. 20. Attending, testifying and producing documentary evidence.....	23
Sec. 21. Adopt and enforce rules and regulations .....	24
Sec. 22. Legal authority to cooperate with Federal Department and other states .....	24
Sec. 23. No provision of Act applies to foreign or interstate commerce..	25
Sec. 24. Penalties .....	25
Sec. 25. and	
Sec. 26. Appropriation .....	25

## Part II

Sec. 1. An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named, approved June 28, 1919, as amended.....	26
--	----

## ILLINOIS PERISHABLE AGRICULTURAL COMMODITIES LAW

---


“AN ACT *in relation to the marketing of fresh fruits, fresh vegetables and onion sets.* (H. B. 490, 491. 61st G. A.)

\* \* \*

In order to acquaint commission merchants, dealers or brokers who handle on commission, buy or sell or handle for brokerage, Illinois grown fresh fruits, fresh vegetables or onion sets, with the conditions under which such commerce is legal, that they may comply therewith, the Act is reproduced herein as passed by the 61st General Assembly of the State of Illinois.

Additional copies will be furnished to individuals who are concerned upon application to the Division of Markets, 214 Centennial Bldg., Springfield, Illinois.





Digitized by the Internet Archive  
in 2021 with funding from  
University of Illinois Urbana-Champaign



# ILLINOIS PERISHABLE AGRICULTURAL COMMODITIES ACT

## PART I

AN ACT *in relation to the marketing of fresh fruits, fresh vegetables and onion sets and making an appropriation in connection therewith.*

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

SECTION 1. When used in this Act, unless the context otherwise requires:

“Person” means individuals, partnerships, firms, corporations and associations.

“Department” means the Department of Agriculture.

“Director” means the Director of Agriculture.

“Perishable agricultural commodities” means fresh fruits and fresh vegetables of every kind and character, or any of them, whether or not frozen or packed in ice, and onion sets.

“Commission merchant” means any person engaged in the business of receiving any perishable agricultural commodity for sale on commission or for or on behalf of another.

“Dealer” means any person who buys, sells, offers or exposes for sale or has in his

possession with intent to sell any perishable agricultural commodity except that (1) no producer shall be considered a dealer in respect to sales of any such commodity of his own raising; (2) no person buying any such commodity solely for sale at retail shall be considered a dealer in respect of such commodity and (3) no person buying any such commodity for canning or processing shall be considered a dealer in respect to such commodity whether or not such commodity or processed product is to be sold or offered for sale unless such product is frozen or packed in ice.

“Broker” means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity for or on behalf of the vendor or the purchaser respectively.

§ 2. On and after August 1, 1939, no person shall carry on the business of a commission merchant, dealer or broker as herein defined in this State without first securing a license from the Department. Persons desiring to secure any such license shall make application therefor to the Department upon forms to be prescribed and furnished by the Department, accompanied by the license fee in the amount hereinafter provided. Such application shall set forth the name of the applicant and if the applicant is a firm, unincorporated association or corporation, the full

name of each member of the firm or the names of the officers of the unincorporated association or corporation. Such application shall state the principal business address of the applicant in this State, and in the case of firms, unincorporated associations and corporations, the name of some person or persons authorized to receive and accept service of notice hereunder and legal notices of all kinds for the applicant. Such application shall further state the type of operation in which the applicant proposes to engage, the class or classes of perishable agricultural commodities which the applicant proposes to handle and such other information as the Department in its discretion may require. The fee for a commission merchant's, dealer's or broker's license hereunder for one year or any portion thereof shall be \$10.00 except that for the period of August 1, 1939 to December 31, 1939, or any portion thereof, the fee shall be \$5.00. All licenses shall expire on December 31 of each year.

§ 3. In addition to the requirements of Section 2, applicants for a commission merchant's license hereunder shall be required to execute and deliver to the Director an indemnity bond for the principal amount of \$2,000, with sureties satisfactory to the Director. All such bonds shall be on a standard form as to terms and conditions approved by the Director and shall be conditioned to secure an hon-

est accounting and handling of perishable agricultural commodities received on consignment from within the State and for the payment to the consignor of all monies or things of value received for goods consigned to such licensee for sale and to insure the consignor against all fraudulent acts of said licensee in the sale or handling of the goods of the consignor. The Director may bring an action in any court of competent jurisdiction in the county in which the place of business of the licensee is situated to recover payment for goods sold on commission and not paid for to the consignor or not honestly accounted for and for damages sustained by consignors by reason of such fraudulent acts and wrongful handling. If any such licensee has become liable to more than one consignor and the amount of the bond is insufficient to pay the entire liability, the several consignors shall be compensated in proportion to their several claims, the said sums, when collected, to be promptly paid over to the parties entitled thereto.

§ 4. Upon receipt of a proper application, payment of the license fee and execution and delivery of a bond when required under Section 3 hereof, the Department shall issue a license to the applicant. However, the Department may refuse to grant or to renew or may suspend or revoke a license hereunder after notice and hearing when satisfied:

(a) That the applicant or licensee has made any statement in the application for the license which is found to have been false or misleading in any material particular;

(b) That the applicant or licensee is a partnership, association or corporation and any individual holding a position or interest or power of control therein has previously been responsible, in whole or in part, for any act which constitutes a violation of this Act and for which a license might be denied, suspended or revoked pursuant to the provision of this section;

(c) That the applicant or licensee has violated any of the provisions of this Act or any of the rules, regulations or orders of the Department lawfully issued hereunder;

(d) That the applicant or licensee has failed to comply with the grading and marking requirements for perishable agricultural commodities under any law applicable thereto.

§ 5. Before refusing to grant a license and before suspending or revoking a license previously granted, the Department shall give notice, personally or by registered mail, to the applicant or licensee and afford him an opportunity to appear and be heard with respect thereto at a time and place specified in such notice. Whenever a license is denied or suspended or revoked, there shall be filed in the office of the De-

partment a memorandum by the person who presided at the hearing given to the applicant or licensee, which memorandum shall briefly state the reasons for the denial, suspension or revocation of the license, but formal findings of fact shall not be required to be made or filed.

§ 6. Within thirty days after any finding or determination of the Department denying, suspending or revoking a license, except an automatic suspension under Section 14 hereof, any person affected by such finding or determination may appeal to the circuit or superior court of the county in which such person resides or has his principal place of business. The circuit or superior court to which such appeal is taken shall hear and determine such appeal and shall have jurisdiction to reverse the finding or determination of the Department.

§ 7. It shall be unlawful and a violation of this Act:

(a) For any commission merchant or broker to make any fraudulent charge in respect to any perishable agricultural commodity;

(b) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought or sold by such dealer;

(c) For any commission merchant or broker to discard, dump or destroy without reasonable cause any perishable agricultural commodity received by such commission merchant or broker;

(d) For any commission merchant, dealer or broker to make for a fraudulent purpose or for the purpose of depressing the market for any perishable agricultural commodity any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received by such commission merchant or bought, sold or consigned by such dealer or the purchase or sale of which is negotiated by such broker or to fail or to refuse truly and correctly to account promptly in respect of any transaction in any such commodity to the person with whom such transaction is had;

(e) For any commission merchant, dealer or broker, for fraudulent purpose, to misrepresent by word, act, mark, stencil, label, statement or deed the character, kind, grade, quality, condition, degree of maturity or state or country of origin of any perishable agricultural commodity received, shipped, sold or offered to be sold;

(f) For any commission merchant, dealer or broker, for a fraudulent purpose, to remove, alter or tamper with any grade, stencil, stamp, tag or other notice placed upon any container or railroad car contain-



ing any perishable agricultural commodity if such grade, stencil, stamp, tag or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or car or the state or country in which such commodity was produced;

(g) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification but this shall not prohibit resorting and discarding inferior products.

§ 8. If any commission merchant, dealer or broker violates any provision of Section 7, hereof, he shall, in addition to any criminal penalty, be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation. Such liability may be enforced either (1) by a complaint to the Department, as hereinafter provided or (2) by suit in any court of competent jurisdiction but the provisions of this section shall not in any way abridge or alter the remedies now existing at common law or by statute

and the provisions of this Act are in addition to any such remedies.

§ 9. Any person complaining of any violation of any provision of Section 7 by any commission merchant, dealer or broker may at any time within nine months after the cause of action accrues apply to the Department by petition which shall briefly state the facts concerning such cause of complaint. Thereupon, if, in the opinion of the Department the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Department to the commission merchant, dealer or broker complained of, who shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be prescribed by the Department.

Any employee of the Department, any interested person or any officer or agency of the United States Department of Agriculture having jurisdiction over commission merchants, dealers or brokers may file, in accordance with the rules and regulations of the Department, a complaint of any violation of any provision of this Act by any commission merchant, dealer or broker and may request an investigation of such complaint by the Department.

If, in the opinion of the Department, there appears to be any reasonable grounds for investigating any complaint made under this section, the Department shall in-

investigate such complaint and shall, if in its opinion the facts warrant such action, have said complaint served by registered mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner for the Department in any county in which said person is engaged in business. Provided, that upon complaints wherein the amount claimed as damages does not exceed the sum of \$100, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

§ 10. In case a complaint is made by a non-resident of the State, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim, conditioned upon the payment of costs including a reasonable attorney's fee for the respondent, if the respondent shall prevail, and any reparation award that may be issued by the Department against the complainant on any counter claim by the respondent, provided that the Department may waive the furnishing of a bond by a complainant who is a resident of a state which permits the filing of a complaint by a resident of this State without the furnishing of bond.

After an opportunity for hearing on complaints where the damages claimed exceed the sum of \$100 has been provided or waived and on complaints where damages claimed do not exceed the sum of \$100 not requiring a hearing as provided herein, the Department shall determine whether or not the commission merchant, dealer or broker has violated any provision of Section 7 hereof.

§ 11. If after a hearing on a complaint made by any person under Section 9, or without hearing as provided therein, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Department determines that the commission merchant, dealer or broker has violated any provision of Section 7, it shall, unless the offender already has made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If after the respondent has filed his answer to the complaint it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Department, under such rules and regulations as it shall prescribe, unless the re-

spondent already has made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Department with respect to the undisputed sum.

§ 12. If any commission merchant, dealer or broker fails to pay the reparation award within the time specified in the Department's order, the complainant or any person for whose benefit such order was made, may at any time within three years after the date of the order file in the circuit or superior court of the county in which the commission merchant, dealer or broker resides or has his principal place of business, a petition setting forth briefly the causes for which he claims damages and the order of the Department in the premises. Such suit in the circuit or superior court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Department shall be *prima facie* evidence of the facts stated therein, no formal pleadings shall be required and the petitioner shall not be liable for the costs in the circuit or supe-

rior court nor for costs at any subsequent state of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed reasonable attorney's fees to be taxed and collected as a part of the costs of the suit.

§ 13. Either party adversely affected by the entry of a reparation order by the Department may within thirty days from and after the date of such order appeal therefrom to the circuit or superior court of the county in which said hearing was held. Such appeal shall be perfected by the filing with the clerk of said court, with proof of service upon the adverse party, of a notice thereof, together with a petition in duplicate which shall recite the prior proceedings before the Department and state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, and a bond in double the amount of the reparation award appealed from conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee if the appellee shall prevail. The clerk of the court shall immediately forward a copy thereof to the Department. The Department shall forthwith prepare, certify and file in said court a true copy of the Department's decision, findings of fact, conclusions and order in said cause together with copies of the pleadings upon which

the cause was heard and submitted to the Department. Such suit in the circuit or superior court shall be a trial de novo and shall proceed in all respects like other civil suits for damages except that the findings of fact and order or orders of the Department shall be prima facie evidence of the facts therein stated. Such petition and pleadings certified by the Department upon which the decision was made by it shall, upon filing in the circuit or superior court, constitute the pleadings upon which such trial de novo shall proceed, subject to such amendments as may be allowed by the court. Appellee shall not be liable for costs in said court and if appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

§ 14. Unless the licensee against whom a reparation order has been issued, shows to the satisfaction of the Department within five days after the expiration of the period allowed for compliance with such order, that he has either taken an appeal, as herein authorized, or has made payment in full, as required by such order, his license under this Act shall be suspended automatically at the expiration of such five day period until such time as he shows to the satisfaction of the Department that he has paid the amount specified in said order with interest thereon to date of payment, provided that if on appeal the ap-



pellée prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of ten days after the date of the judgment on appeal or the dismissal of the appeal unless prior thereto the judgment of the court has been satisfied.

§ 15. Service of notices or orders or any process with respect to complaints, investigations, hearings and proceedings before the Department hereunder may be made upon any person upon whom a summons might be served as in civil cases and such service may be made personally or by registered mail. Every order of the Department shall be served upon each person affected thereby either by personal delivery of a certified copy thereof or by mailing a certified copy thereof, postage prepaid.

§ 16. Appeals from all final orders and judgments entered by a circuit or superior court in any proceeding to reverse, vacate or modify any determination, finding or order of the Department, may be taken directly to the Supreme Court by either party to the proceeding and shall be governed by the rules applying to other civil cases appealed to the Supreme Court except that formal pleadings shall not be required.

In all cases where a finding, determination or order of the Department is appealed from, or where the Department is party to any proceeding in any court of record,

the Attorney General shall appear for and represent the Department.

§ 17. E v e r y commission merchant, dealer and broker shall keep such accounts, records and memoranda as will fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

In the investigation of complaints under this Act, the Department or any employee thereof designated by the Director, shall have the right to inspect such accounts, records and memoranda of any commission merchant, dealer or broker as may be material for the determination of any such complaint.

§ 18. The Director or any employee of the Department designated by him for such purpose may hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, receive evidence and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this Act. In case of the refusal of any person to comply with any subpoena or on the refusal of a witness to testify to any matter regarding which he lawfully may be interrogated hereunder, the judge of any circuit or superior court of the county in which such investigation or hearing is being conducted may,

on the application of the Director or the employee of the Department designated by the Director to conduct such investigation or hearing, compel obedience by proceedings as for contempt as in the case of disobedience to an order of such court.

§ 19. Each officer who serves any subpoena hereunder shall receive the same fees as are provided by law for sheriffs serving summons in civil cases and each witness who appears in obedience to a subpoena before the Director or any employee of the Department designated by the Director shall receive for his attendance the same fees and mileage as are provided for witnesses in civil cases in the circuit courts, which fees shall be audited and paid upon the presentation of proper vouchers approved by the Director, or any employee of the Department designated for such purpose. Said fees shall be paid by the Department in case they are incurred pursuant to any investigation undertaken by it, but if incurred in connection with or pursuant to any hearing conducted hereunder, shall be taxed as costs and paid by the party thereto against whom the decision or finding of the Department is made, in like manner as costs are taxed and recovered in civil suits in courts of record of this State.

§ 20. No person shall be excused from attending, testifying, answering any lawful inquiry or producing any documentary

evidence before the Director or any employee of the Department designated by the Director in obedience to a subpoena of the Director or any such designated employee in any cause or proceeding based upon or growing out of any alleged violation of this Act upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, under oath, to testify or produce evidence, documentary or otherwise, before the Director of such designated employee in obedience to the subpoena of the Director or any such designated employee in such cause or proceeding; provided that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§ 21. The Department shall have power and authority to adopt and enforce all rules, regulations or orders necessary to carry out and administer the provisions of this Act.

§ 22. In order to correlate the administration of this Act with the administration of the Perishable Agricultural Commodities Act of 1930, enacted by the Congress of the United States, and in order to secure

uniform regulation of the marketing of perishable agricultural commodities, the Department is authorized and empowered to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture, for the effectuation of the purposes of this Act.

§ 23. No provisions of this Act shall apply or be deemed to apply to foreign or interstate commerce excepting insofar as may be permitted by the constitution of the United States, the Acts of Congress and the treaties made thereunder, *nor to transactions subject to the provisions of the "Perishable Agricultural Commodities Act, 1930"*.

§ 24. Any person who shall violate any provision of this Act or any rule or regulation of the Department issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00).

§ 25. The sum of Fifteen Thousand Dollars (\$15,000.00) or so much thereof as may be necessary, is hereby appropriated to the Department of Agriculture for the purpose of administering the provisions of this Act for the biennium ending June 30, 1941.

§ 26. The appropriation herein made is subject to the provisions of "An Act in relation to State Finance", approved June 10, 1919, as amended.

## PART II.

AN ACT *to amend Section 1 of "An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named"*, approved June 28, 1919, as amended.

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

SECTION 1. Section 1 of "An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named", approved June 28, 1919, as amended, is amended to read as follows:

§ 1. (a) The term "commission merchant" shall include every person, firm, exchange, association and corporation licensed under this Act to receive, sell, or offer for sale on commission, within this State, any kind of farm produce; except where such farm produce is sold for consumption and not for resale. This Act shall not apply to the sale of farm produce at public auction by a duly licensed and bonded auctioneer, acting as the agent of another to whom such farm produce shall have been consigned; nor shall this Act apply to seeds sold at retail; nor shall this Act apply to grains and seeds which are classified into grades by any governmental

or State Department duly created by any law of the State of Illinois or of the United States.

(b) The term "farm produce" shall include all agricultural, *and floricultural products of the soil, and poultry, wool, feathers, fur, hides, eggs, dairy products, nuts and honey*, but shall not include fresh fruits and fresh vegetables of every kind and character or any of them, onion sets, timber products, tea or coffee.

(c) The word "Director" when used herein shall have reference to the Director of Agriculture.



THE LIBRARY OF THE  
NOV 3 1939  
UNIVERSITY OF ILLINOIS





338.1  
IL63fr  
1945  
cop. 2

STATE OF ILLINOIS  
DWIGHT H. GREEN, Governor

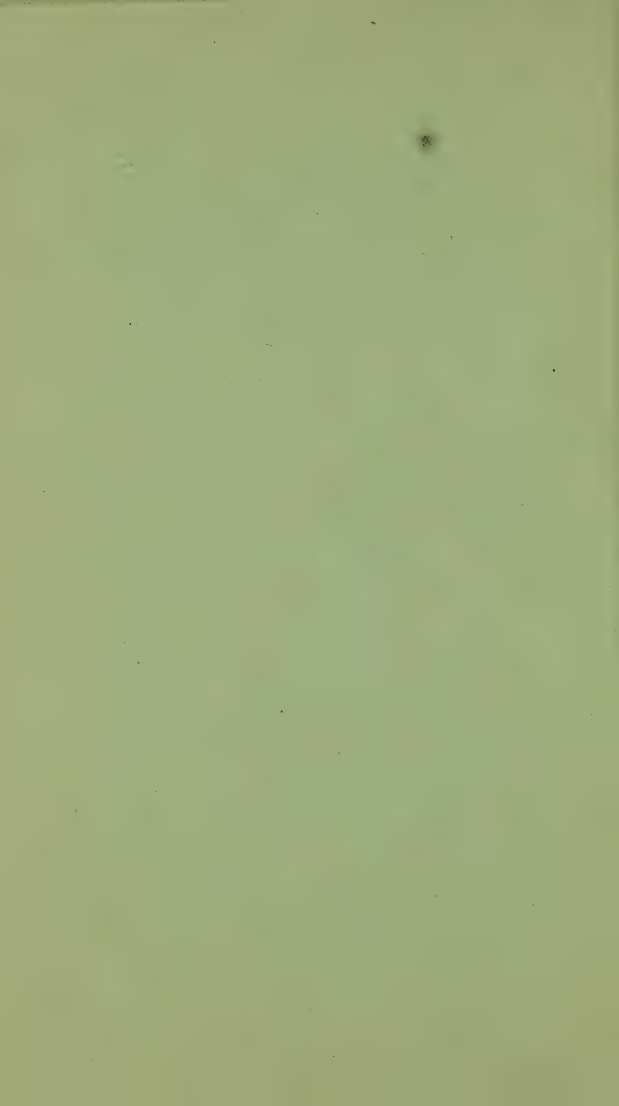


# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

Issued by  
THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

[Printed by authority of the State of Illinois]



STATE OF ILLINOIS  
DWIGHT H. GREEN, Governor



THE LIBRARY OF THE

JUL 9 1945

UNIVERSITY OF ILLINOIS

# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

HOWARD LEONARD  
Director of Agriculture

Issued by  
THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

EDMUND C. SECOR  
Superintendent





# CONTENTS

## Part I

	Page
Sec. 1. Definitions .....	7
Sec. 2. Application for license. Fee.....	8
Sec. 3. Commission Merchant's Bond ....	9
Sec. 4. Issuing Licenses (and conditions thereunder) .....	10
Sec. 5. Refusal to grant or suspending or revoking a license previously granted .....	11
Sec. 6. Court appeal for denying, suspending or revoking license.....	12
Sec. 7. Violations of this Act.....	12
Sec. 8. Liable for violation of Sec. 7.....	14
Sec. 9. Complaints .....	15
Sec. 10. Complaints by non-residents.....	16
Sec. 11. Determining damages and payment thereof .....	17
Sec. 12. Recovery of damages by court action .....	18
Sec. 13. 30 day time limit on entry of reparation order, Court costs...	19
Sec. 14. Automatic suspension of license..	20
Sec. 15. Service of order or summons.....	21
Sec. 16. Appeal to higher courts for final orders or judgments.....	21
Sec. 17. Keeping of accounts, records and memoranda by licensees, power of Department to inspect same..	22
Sec. 18. Holding hearings; witnesses, etc..	22
Sec. 19. Subpoena, Witness fees, and payment thereof .....	23

## CONTENTS—(Continued)

	Page
Sec. 20. Attending, testifying and producing documentary evidence.....	23
Sec. 21. Adopt and enforce rules and regulations .....	24
Sec. 22. Legal authority to cooperate with Federal Department and other states .....	24
Sec. 23. No provision of Act applies to foreign or interstate commerce..	25
Sec. 24. Penalties .....	25
Sec. 25. and	
Sec. 26. Appropriation .....	25

## Part II

Sec. 1. An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named, approved June 28, 1919, as amended.....	26
--	----

## ILLINOIS PERISHABLE AGRICULTURAL COMMODITIES LAW

---

“AN ACT *in relation to the marketing of fresh fruits, fresh vegetables and onion sets.* (H. B. 490, 491. 61st G. A.)

\* \* \*

In order to acquaint commission merchants, dealers or brokers who handle on commission, buy or sell or handle for brokerage, Illinois grown fresh fruits, fresh vegetables or onion sets, with the conditions under which such commerce is legal, that they may comply therewith, the Act is reproduced herein as passed by the 61st General Assembly of the State of Illinois.

Additional copies will be furnished to individuals who are concerned upon application to the Division of Markets, 214 Centennial Bldg., Springfield, Illinois.



# ILLINOIS PERISHABLE AGRICULTURAL COMMODITIES ACT

## PART I

AN ACT *in relation to the marketing of fresh fruits, fresh vegetables and onion sets and making an appropriation in connection therewith.*

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

SECTION 1. When used in this Act, unless the context otherwise requires:

“Person” means individuals, partnerships, firms, corporations and associations.

“Department” means the Department of Agriculture.

“Director” means the Director of Agriculture.

“Perishable agricultural commodities” means fresh fruits and fresh vegetables of every kind and character, or any of them, whether or not frozen or packed in ice, and onion sets.

“Commission merchant” means any person engaged in the business of receiving any perishable agricultural commodity for sale on commission or for or on behalf of another.

“Dealer” means any person who buys, sells, offers or exposes for sale or has in his

possession with intent to sell any perishable agricultural commodity except that (1) no producer shall be considered a dealer in respect to sales of any such commodity of his own raising; (2) no person buying any such commodity solely for sale at retail shall be considered a dealer in respect of such commodity and (3) no person buying any such commodity for canning or processing shall be considered a dealer in respect to such commodity whether or not such commodity or processed product is to be sold or offered for sale unless such product is frozen or packed in ice.

“Broker” means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity for or on behalf of the vendor or the purchaser respectively.

§ 2. On and after August 1, 1939, no person shall carry on the business of a commission merchant, dealer or broker as herein defined in this State without first securing a license from the Department. Persons desiring to secure any such license shall make application therefor to the Department upon forms to be prescribed and furnished by the Department, accompanied by the license fee in the amount hereinafter provided. Such application shall set forth the name of the applicant and if the applicant is a firm, unincorporated association or corporation, the full

name of each member of the firm or the names of the officers of the unincorporated association or corporation. Such application shall state the principal business address of the applicant in this State, and in the case of firms, unincorporated associations and corporations, the name of some person or persons authorized to receive and accept service of notice hereunder and legal notices of all kinds for the applicant. Such application shall further state the type of operation in which the applicant proposes to engage, the class or classes of perishable agricultural commodities which the applicant proposes to handle and such other information as the Department in its discretion may require. The fee for a commission merchant's, dealer's or broker's license hereunder for one year or any portion thereof shall be \$10.00 except that for the period of August 1, 1939 to December 31, 1939, or any portion thereof, the fee shall be \$5.00. All licenses shall expire on December 31 of each year.

§ 3. In addition to the requirements of Section 2, applicants for a commission merchant's license hereunder shall be required to execute and deliver to the Director an indemnity bond for the principal amount of \$2,000, with sureties satisfactory to the Director. All such bonds shall be on a standard form as to terms and conditions approved by the Director and shall be conditioned to secure an hon-

est accounting and handling of perishable agricultural commodities received on consignment from within the State and for the payment to the consignor of all monies or things of value received for goods consigned to such licensee for sale and to insure the consignor against all fraudulent acts of said licensee in the sale or handling of the goods of the consignor. The Director may bring an action in any court of competent jurisdiction in the county in which the place of business of the licensee is situated to recover payment for goods sold on commission and not paid for to the consignor or not honestly accounted for and for damages sustained by consignors by reason of such fraudulent acts and wrongful handling. If any such licensee has become liable to more than one consignor and the amount of the bond is insufficient to pay the entire liability, the several consignors shall be compensated in proportion to their several claims, the said sums, when collected, to be promptly paid over to the parties entitled thereto.

§ 4. Upon receipt of a proper application, payment of the license fee and execution and delivery of a bond when required under Section 3 hereof, the Department shall issue a license to the applicant. However, the Department may refuse to grant or to renew or may suspend or revoke a license hereunder after notice and hearing when satisfied:



(a) That the applicant or licensee has made any statement in the application for the license which is found to have been false or misleading in any material particular;

(b) That the applicant or licensee is a partnership, association or corporation and any individual holding a position or interest or power of control therein has previously been responsible, in whole or in part, for any act which constitutes a violation of this Act and for which a license might be denied, suspended or revoked pursuant to the provision of this section;

(c) That the applicant or licensee has violated any of the provisions of this Act or any of the rules, regulations or orders of the Department lawfully issued hereunder;

(d) That the applicant or licensee has failed to comply with the grading and marking requirements for perishable agricultural commodities under any law applicable thereto.

§ 5. Before refusing to grant a license and before suspending or revoking a license previously granted, the Department shall give notice, personally or by registered mail, to the applicant or licensee and afford him an opportunity to appear and be heard with respect thereto at a time and place specified in such notice. Whenever a license is denied or suspended or revoked, there shall be filed in the office of the De-

partment a memorandum by the person who presided at the hearing given to the applicant or licensee, which memorandum shall briefly state the reasons for the denial, suspension or revocation of the license, but formal findings of fact shall not be required to be made or filed.

§ 6. Within thirty days after any finding or determination of the Department denying, suspending or revoking a license, except an automatic suspension under Section 14 hereof, any person affected by such finding or determination may appeal to the circuit or superior court of the county in which such person resides or has his principal place of business. The circuit or superior court to which such appeal is taken shall hear and determine such appeal and shall have jurisdiction to reverse the finding or determination of the Department.

§ 7. It shall be unlawful and a violation of this Act:

(a) For any commission merchant or broker to make any fraudulent charge in respect to any perishable agricultural commodity;

(b) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought or sold by such dealer;

(c) For any commission merchant or broker to discard, dump or destroy without reasonable cause any perishable agricultural commodity received by such commission merchant or broker;

(d) For any commission merchant, dealer or broker to make for a fraudulent purpose or for the purpose of depressing the market for any perishable agricultural commodity any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received by such commission merchant or bought, sold or consigned by such dealer or the purchase or sale of which is negotiated by such broker or to fail or to refuse truly and correctly to account promptly in respect of any transaction in any such commodity to the person with whom such transaction is had;

(e) For any commission merchant, dealer or broker, for fraudulent purpose, to misrepresent by word, act, mark, stencil, label, statement or deed the character, kind, grade, quality, condition, degree of maturity or state or country of origin of any perishable agricultural commodity received, shipped, sold or offered to be sold;

(f) For any commission merchant, dealer or broker, for a fraudulent purpose, to remove, alter or tamper with any grade, stencil, stamp, tag or other notice placed upon any container or railroad car contain-

ing any perishable agricultural commodity if such grade, stencil, stamp, tag or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or car or the state or country in which such commodity was produced;

(g) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification but this shall not prohibit resorting and discarding inferior products.

§ 8. If any commission merchant, dealer or broker violates any provision of Section 7, hereof, he shall, in addition to any criminal penalty, be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation. Such liability may be enforced either (1) by a complaint to the Department, as hereinafter provided or (2) by suit in any court of competent jurisdiction but the provisions of this section shall not in any way abridge or alter the remedies now existing at common law or by statute

and the provisions of this Act are in addition to any such remedies.

§ 9. Any person complaining of any violation of any provision of Section 7 by any commission merchant, dealer or broker may at any time within nine months after the cause of action accrues apply to the Department by petition which shall briefly state the facts concerning such cause of complaint. Thereupon, if, in the opinion of the Department the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Department to the commission merchant, dealer or broker complained of, who shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be prescribed by the Department.

Any employee of the Department, any interested person or any officer or agency of the United States Department of Agriculture having jurisdiction over commission merchants, dealers or brokers may file, in accordance with the rules and regulations of the Department, a complaint of any violation of any provision of this Act by any commission merchant, dealer or broker and may request an investigation of such complaint by the Department.

If, in the opinion of the Department, there appears to be any reasonable grounds for investigating any complaint made under this section, the Department shall in-

investigate such complaint and shall, if in its opinion the facts warrant such action, have said complaint served by registered mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner for the Department in any county in which said person is engaged in business. Provided, that upon complaints wherein the amount claimed as damages does not exceed the sum of \$100, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

§ 10. In case a complaint is made by a non-resident of the State, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim, conditioned upon the payment of costs including a reasonable attorney's fee for the respondent, if the respondent shall prevail, and any reparation award that may be issued by the Department against the complainant on any counter claim by the respondent, provided that the Department may waive the furnishing of a bond by a complainant who is a resident of a state which permits the filing of a complaint by a resident of this State without the furnishing of bond.

After an opportunity for hearing on complaints where the damages claimed exceed the sum of \$100 has been provided or waived and on complaints where damages claimed do not exceed the sum of \$100 not requiring a hearing as provided herein, the Department shall determine whether or not the commission merchant, dealer or broker has violated any provision of Section 7 hereof.

§ 11. If after a hearing on a complaint made by any person under Section 9, or without hearing as provided therein, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Department determines that the commission merchant, dealer or broker has violated any provision of Section 7, it shall, unless the offender already has made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If after the respondent has filed his answer to the complaint it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Department, under such rules and regulations as it shall prescribe, unless the re-

spondent already has made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Department with respect to the undisputed sum.

§ 12. If any commission merchant, dealer or broker fails to pay the reparation award within the time specified in the Department's order, the complainant or any person for whose benefit such order was made, may at any time within three years after the date of the order file in the circuit or superior court of the county in which the commission merchant, dealer or broker resides or has his principal place of business, a petition setting forth briefly the causes for which he claims damages and the order of the Department in the premises. Such suit in the circuit or superior court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Department shall be prima facie evidence of the facts stated therein, no formal pleadings shall be required and the petitioner shall not be liable for the costs in the circuit or supe-



rior court nor for costs at any subsequent state of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed reasonable attorney's fees to be taxed and collected as a part of the costs of the suit.

§ 13. Either party adversely affected by the entry of a reparation order by the Department may within thirty days from and after the date of such order appeal therefrom to the circuit or superior court of the county in which said hearing was held. Such appeal shall be perfected by the filing with the clerk of said court, with proof of service upon the adverse party, of a notice thereof, together with a petition in duplicate which shall recite the prior proceedings before the Department and state the grounds upon which the petitioner relies to defeat the right of the adverse party to recover the damages claimed, and a bond in double the amount of the reparation award appealed from conditioned upon the payment of the judgment entered by the court, plus interest and costs, including a reasonable attorney's fee for the appellee if the appellee shall prevail. The clerk of the court shall immediately forward a copy thereof to the Department. The Department shall forthwith prepare, certify and file in said court a true copy of the Department's decision, findings of fact, conclusions and order in said cause together with copies of the pleadings upon which

the cause was heard and submitted to the Department. Such suit in the circuit or superior court shall be a trial de novo and shall proceed in all respects like other civil suits for damages except that the findings of fact and order or orders of the Department shall be prima facie evidence of the facts therein stated. Such petition and pleadings certified by the Department upon which the decision was made by it shall, upon filing in the circuit or superior court, constitute the pleadings upon which such trial de novo shall proceed, subject to such amendments as may be allowed by the court. Appellee shall not be liable for costs in said court and if appellee prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs.

§ 14. Unless the licensee against whom a reparation order has been issued, shows to the satisfaction of the Department within five days after the expiration of the period allowed for compliance with such order, that he has either taken an appeal, as herein authorized, or has made payment in full, as required by such order, his license under this Act shall be suspended automatically at the expiration of such five day period until such time as he shows to the satisfaction of the Department that he has paid the amount specified in said order with interest thereon to date of payment, provided that if on appeal the ap-

pellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of ten days after the date of the judgment on appeal or the dismissal of the appeal unless prior thereto the judgment of the court has been satisfied.

§ 15. Service of notices or orders or any process with respect to complaints, investigations, hearings and proceedings before the Department hereunder may be made upon any person upon whom a summons might be served as in civil cases and such service may be made personally or by registered mail. Every order of the Department shall be served upon each person affected thereby either by personal delivery of a certified copy thereof or by mailing a certified copy thereof, postage prepaid.

§ 16. Appeals from all final orders and judgments entered by a circuit or superior court in any proceeding to reverse, vacate or modify any determination, finding or order of the Department, may be taken directly to the Supreme Court by either party to the proceeding and shall be governed by the rules applying to other civil cases appealed to the Supreme Court except that formal pleadings shall not be required.

In all cases where a finding, determination or order of the Department is appealed from, or where the Department is party to any proceeding in any court of record,

the Attorney General shall appear for and represent the Department.

§ 17. Every commission merchant, dealer and broker shall keep such accounts, records and memoranda as will fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

In the investigation of complaints under this Act, the Department or any employee thereof designated by the Director, shall have the right to inspect such accounts, records and memoranda of any commission merchant, dealer or broker as may be material for the determination of any such complaint.

§ 18. The Director or any employee of the Department designated by him for such purpose may hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, receive evidence and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this Act. In case of the refusal of any person to comply with any subpoena or on the refusal of a witness to testify to any matter regarding which he lawfully may be interrogated hereunder, the judge of any circuit or superior court of the county in which such investigation or hearing is being conducted may,

on the application of the Director or the employee of the Department designated by the Director to conduct such investigation or hearing, compel obedience by proceedings as for contempt as in the case of disobedience to an order of such court.

§ 19. Each officer who serves any subpoena hereunder shall receive the same fees as are provided by law for sheriffs serving summons in civil cases and each witness who appears in obedience to a subpoena before the Director or any employee of the Department designated by the Director shall receive for his attendance the same fees and mileage as are provided for witnesses in civil cases in the circuit courts, which fees shall be audited and paid upon the presentation of proper vouchers approved by the Director, or any employee of the Department designated for such purpose. Said fees shall be paid by the Department in case they are incurred pursuant to any investigation undertaken by it, but if incurred in connection with or pursuant to any hearing conducted hereunder, shall be taxed as costs and paid by the party thereto against whom the decision or finding of the Department is made, in like manner as costs are taxed and recovered in civil suits in courts of record of this State.

§ 20. No person shall be excused from attending, testifying, answering any lawful inquiry or producing any documentary

evidence before the Director or any employee of the Department designated by the Director in obedience to a subpoena of the Director or any such designated employee in any cause or proceeding based upon or growing out of any alleged violation of this Act upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, under oath, to testify or produce evidence, documentary or otherwise, before the Director or such designated employee in obedience to the subpoena of the Director or any such designated employee in such cause or proceeding; provided that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§ 21. The Department shall have power and authority to adopt and enforce all rules, regulations or orders necessary to carry out and administer the provisions of this Act.

§ 22. In order to correlate the administration of this Act with the administration of the Perishable Agricultural Commodities Act of 1930, enacted by the Congress of the United States, and in order to secure

uniform regulation of the marketing of perishable agricultural commodities, the Department is authorized and empowered to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture, for the effectuation of the purposes of this Act.

§ 23. No provisions of this Act shall apply or be deemed to apply to foreign or interstate commerce excepting insofar as may be permitted by the constitution of the United States, the Acts of Congress and the treaties made thereunder, *nor to transactions subject to the provisions of the "Perishable Agricultural Commodities Act, 1930"*.

§ 24. Any person who shall violate any provision of this Act or any rule or regulation of the Department issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00).

§ 25. The sum of Fifteen Thousand Dollars (\$15,000.00) or so much thereof as may be necessary, is hereby appropriated to the Department of Agriculture for the purpose of administering the provisions of this Act for the biennium ending June 30, 1941.

§ 26. The appropriation herein made is subject to the provisions of "An Act in relation to State Finance", approved June 10, 1919, as amended.

## PART II.

AN ACT to amend Section 1 of “An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named”, approved June 28, 1919, as amended.

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

SECTION 1. Section 1 of “An Act to regulate the consignment and sale on commission of farm produce, and to repeal an Act therein named”, approved June 28, 1919, as amended, is amended to read as follows:

§ 1. (a) The term “commission merchant” shall include every person, firm, exchange, association and corporation licensed under this Act to receive, sell, or offer for sale on commission, within this State, any kind of farm produce; except where such farm produce is sold for consumption and not for resale. This Act shall not apply to the sale of farm produce at public auction by a duly licensed and bonded auctioneer, acting as the agent of another to whom such farm produce shall have been consigned; nor shall this Act apply to seeds sold at retail; nor shall this Act apply to grains and seeds which are classified into grades by any governmental



or State Department duly created by any law of the State of Illinois or of the United States.

(b) The term "farm produce" shall include all agricultural, *and floricultural products of the soil, and poultry, wool, feathers, fur, hides, eggs, dairy products, nuts and honey*, but shall not include fresh fruits and fresh vegetables of every kind and character or any of them, onion sets, timber products, tea or coffee.

(c) The word "Director" when used herein shall have reference to the Director of Agriculture.







338.1  
IL63 fr  
1951

cop. 2

STATE OF ILLINOIS  
ADLAI E. STEVENSON, Governor



# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

1951  
Issued by

THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

[Printed by authority of the State of Illinois.]



STATE OF ILLINOIS  
ADLAI E. STEVENSON, Governor



# THE LAW

Regarding An Act in Relation to the Market-  
ing of Fresh Fruits, Fresh Vegetables  
and Onion Sets

ROY E. YUNG  
Director of Agriculture

THE LIBRARY OF THE

JUN 20 1951

UNIVERSITY OF ILLINOIS

Issued by  
THE DEPARTMENT OF AGRICULTURE  
DIVISION OF MARKETS

HAROLD A. KAESER  
Superintendent





## CONTENTS

### Part I

	PAGE
Sec. 1. Definitions .....	5
Sec. 2. Application for license. Fee.....	6-7
Sec. 3. Commission Merchant's Bond.....	7-8
Sec. 4. Issuing Licenses (and conditions thereunder) .....	8-9
Sec. 5. Refusal to grant or suspending or revoking a license previously granted .....	9-10
Sec. 6.	
Sec. 7. Violations of this Act.....	10-11
Sec. 8. Liable for violation of Sec. 7.....	12
Sec. 9. Complaints .....	12-13
Sec. 10. Complaints by non-residents....	13-14
Sec. 11. Determining damages and pay- ment thereof .....	14-15
Sec. 12. Recovery of damages by court action .....	15-16
Secs. 13.01 and 13.02 Administrative Review .....	16
Sec. 14. Automatic suspension of license.	16-17
Sec. 15. Service of order or summons.....	17
Sec. 16. Appeal to higher courts.....	17-18
Sec. 17. Keeping of accounts, records and memoranda by licensees, power of Department to inspect same	18
Sec. 18. Holding hearings; witnesses, etc.	18-19
Sec. 19. Subpoena, Witness fees, and pay- ment thereof .....	19
Sec. 20. Attending, testifying and produc- ing documentary evidence....	20

## CONTENTS—(Continued)

	PAGE
Sec. 21. Adopt and enforce rules and regulations .....	20
Sec. 22. Legal authority to cooperate with Federal Department and other states .....	20-21
Sec. 23. No provision of Act applies to foreign or interstate commerce...	21
Sec. 24. Penalties .....	21

# ILLINOIS PERISHABLE AGRICULTURAL COMMODITIES ACT

## PART I

AN ACT *in relation to the marketing of fresh fruits, fresh vegetables and onion sets and making an appropriation in connection therewith.*

*Be it enacted by the People of the State of Illinois, represented in the General Assembly:*

SECTION 1. When used in this Act, unless the context otherwise requires:

“Person” means individuals, partnerships, firms, corporations and associations.

“Department” means the Department of Agriculture.

“Director” means the Director of Agriculture.

“Perishable agricultural commodities” means fresh fruits and fresh vegetables of every kind and character, or any of them, whether or not frozen or packed in ice, and onion sets.

“Commission merchant” means any person engaged in the business of receiving any perishable agricultural commodity for sale on commission or for or on behalf of another.

“Dealer” means any person who buys, sells, offers or exposes for sale or has in his possession with intent to sell any perishable agricultural commodity except that (1) no producer shall be considered a dealer in respect to sales of any such commodity of his own raising; (2) no person buying any such commodity solely for sale at retail shall be considered a dealer in respect of such commodity and (3) no person buying any such commodity for canning or processing shall be considered a dealer in respect to such commodity whether or not such commodity or processed product is to be sold or offered for sale unless such product is frozen or packed in ice.

“Broker” means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity for or on behalf of the vendor or the purchaser respectively.

§ 2. No person shall carry on the business of a commission merchant, dealer or broker as herein defined in this State without first securing a license from the Department. Persons desiring to secure any such license shall make application therefor to the Department upon forms to be prescribed and furnished by the Department, accompanied by the license fee in the amount hereinafter provided. Such application shall set forth the name of the applicant and if the applicant is a firm, unincorporated association or cor-

poration, the full name of each member of the firm or the names of the officers of the unincorporated association or corporation. Such application shall state the principal business address of the applicant in this State, and in the case of firms, unincorporated associations and corporations, the name of some person or persons authorized to receive and accept service of notice hereunder and legal notices of all kinds for the applicant. Such application shall further state the type of operation in which the applicant proposes to engage, the class or classes of perishable agricultural commodities which the applicant proposes to handle and such other information as the Department in its discretion may require. The fee for a commission merchant's, dealer's or broker's license hereunder for one year or any portion thereof shall be \$10.00 except that for the period of August 1, 1939 to December 31, 1939, or any portion thereof, the fee shall be \$5.00. All licenses shall expire on December 31 of each year.

§ 3. In addition to the requirements of Section 2, applicants for a commission merchant's license hereunder shall be required to execute and deliver to the Director an indemnity bond for the principal amount of \$2,000, with sureties satisfactory to the Director. All such bonds shall be on a standard form as to terms and conditions approved by the Director and shall be conditioned to

secure an honest accounting and handling of perishable agricultural commodities received on consignment from within the State and for the payment to the consignor of all monies or things of value received for goods consigned to such licensee for sale and to insure the consignor against all fraudulent acts of said licensee in the sale or handling of the goods of the consignor. The Director may bring an action in any court of competent jurisdiction in the county in which the place of business of the licensee is situated to recover payment for goods sold on commission and not paid for to the consignor or not honestly accounted for and for damages sustained by consignors by reason of such fraudulent acts and wrongful handling. If any such licensee has become liable to more than one consignor and the amount of the bond is insufficient to pay the entire liability, the several consignors shall be compensated in proportion to their several claims, the said sums, when collected, to be promptly paid over to the parties entitled thereto.

§ 4. Upon receipt of a proper application, payment of the license fee and execution and delivery of a bond when required under Section 3 hereof, the Department shall issue a license to the applicant. However, the Department may refuse to grant or to renew or may suspend or revoke a license hereunder after notice and hearing when satisfied:

(a) That the applicant or licensee has

made any statement in the application for the license which is found to have been false or misleading in any material particular ;

(b) That the applicant or licensee is a partnership, association or corporation and any individual holding a position or interest or power of control therein has previously been responsible, in whole or in part, for any act which constitutes a violation of this Act and for which a license might be denied, suspended or revoked pursuant to the provision of this section ;

(c) That the applicant or licensee has violated any of the provisions of this Act or any of the rules, regulations or orders of the Department lawfully issued hereunder ;

(d) That the applicant or licensee has failed to comply with the grading and marking requirements for perishable agricultural commodities under any law applicable thereto.

§ 5. Before refusing to grant a license and before suspending or revoking a license previously granted, the Department shall give notice, personally or by registered mail, to the applicant or licensee and afford him an opportunity to appear and be heard with respect thereto at a time and place specified in such notice. Whenever a license is denied or suspended or revoked, there shall be filed in the office of the Department a memorandum by the person who presided at the hearing given to the applicant or licensee, which

memorandum shall briefly state the reasons for the denial, suspension or revocation of the license, but formal findings of fact shall not be required to be made or filed.

§ 7. It shall be unlawful and a violation of this Act:

(a) For any commission merchant or broker to make any fraudulent charge in respect to any perishable agricultural commodity;

(b) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought or sold by such dealer;

(c) For any commission merchant or broker to discard, dump or destroy without reasonable cause any perishable agricultural commodity received by such commission merchant or broker;

(d) For any commission merchant, dealer or broker to make for a fraudulent purpose or for the purpose of depressing the market for any perishable agricultural commodity any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received by such commission merchant or bought, sold or consigned by such dealer or the purchase or sale of which is negotiated by such broker or to fail or to refuse truly and correctly to account promptly in respect



of any transaction in any such commodity to the person with whom such transaction is had ;

(e) For any commission merchant, dealer or broker, for fraudulent purpose, to misrepresent by word, act, mark, stencil, label, statement or deed the character, kind, grade, quality, condition, degree of maturity or state or country of origin of any perishable agricultural commodity received, shipped, sold or offered to be sold ;

(f) For any commission merchant, dealer or broker, for a fraudulent purpose, to remove, alter or tamper with any grade, stencil, stamp, tag or other notice placed upon any container or railroad car containing any perishable agricultural commodity if such grade, stencil, stamp, tag or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or car or the state or country in which such commodity was produced ;

(g) For any commission merchant, dealer or broker, without the consent of an inspector, to make, cause or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification but this shall not prohibit resorting and discarding inferior products.

§ 8. If any commission merchant, dealer or broker violates any provision of Section 7, hereof, he shall, in addition to any criminal penalty, be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation. Such liability may be enforced either (1) by a complaint to the Department, as hereinafter provided or (2) by suit in any court of competent jurisdiction but the provisions of this section shall not in any way abridge or alter the remedies now existing at common law or by statute and the provisions of this Act are in addition to any such remedies.

§ 9. Any person complaining of any violation of any provision of Section 7 by any commission merchant, dealer or broker may at any time within nine months after the cause of action accrues apply to the Department by petition which shall briefly state the facts concerning such cause of complaint. Thereupon, if, in the opinion of the Department the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Department to the commission merchant, dealer or broker complained of, who shall be called upon to satisfy the complaint or to answer it in writing within a reasonable time to be prescribed by the Department.

Any employee of the Department, any interested person or any officer or agency of the

United States Department of Agriculture having jurisdiction over commission merchants, dealers or brokers may file, in accordance with the rules and regulations of the Department, a complaint of any violation of any provision of this Act by any commission merchant, dealer or broker and may request an investigation of such complaint by the Department.

If, in the opinion of the Department, there appears to be any reasonable grounds for investigating any complaint made under this section, the Department shall investigate such complaint and shall, if in its opinion the facts warrant such action, have said complaint served by registered mail or otherwise on the person concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner for the Department in any county in which said person is engaged in business. Provided, that upon complaints wherein the amount claimed as damages does not exceed the sum of \$100, a hearing need not be held and proof in support of the complaint and in support of the respondent's answer may be supplied in the form of depositions or verified statements of fact.

§ 10. In case a complaint is made by a non-resident of the State, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim, condi-

tioned upon the payment of costs including a reasonable attorney's fee for the respondent, if the respondent shall prevail, and any reparation award that may be issued by the Department against the complainant on any counter claim by the respondent, provided that the Department may waive the furnishing of a bond by a complainant who is a resident of a state which permits the filing of a complaint by a resident of this State without the furnishing of bond.

After an opportunity for hearing on complaints where the damages claimed exceed the sum of \$100 has been provided or waived and on complaints where damages claimed do not exceed the sum of \$100 not requiring a hearing as provided herein, the Department shall determine whether or not the commission merchant, dealer or broker has violated any provision of Section 7 hereof.

§ 11. If after a hearing on a complaint made by any person under Section 9, or without hearing as provided therein, or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Department determines that the commission merchant, dealer or broker has violated any provision of Section 7, it shall, unless the offender already has made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled

as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If after the respondent has filed his answer to the complaint it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Department, under such rules and regulations as it shall prescribe, unless the respondent already has made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Department with respect to the undisputed sum.

§ 12. If any commission merchant, dealer or broker fails to pay the reparation award within the time specified in the Department's order, and no review is commenced therefrom within 35 days from the date that a copy of the order was served upon the party affected thereby, the complainant or any person for whose benefit such order was made, may at any time within three years after the date of the award present a certified copy of the award to the Circuit or Superior Court of the

county in which the commission merchant, dealer or broker resides or has his principal place of business, whereupon the court shall render a judgment in the amount of the award plus costs incurred in procuring such judgment, which costs shall include reasonable attorney's fees.

§ 13.01. All final administrative decisions of the Department hereunder shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act", approved May 8, 1945 and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 1 of the "Administrative Review Act."

§ 13.02. The Circuit or Superior Court hearing a review of any decision of the Department hereunder may stay or suspend any such decision in accordance with the provisions of the aforesaid "Administrative Review Act," provided that no reparation award shall be stayed or suspended until the person seeking such stay order shall first file a bond in double the amount of said award.

§ 14. Unless the licensee against whom a reparation order has been issued, shows to the satisfaction of the Department within five days after the expiration of the period allowed for compliance with such order, that he has either obtained a judicial review, as herein authorized, or has made payment in

full, as required by such order, and his license under this Act shall be suspended automatically at the expiration of such five day period until such time as he shows to the satisfaction of the Department that he has paid the amount specified in said order with interest thereon to date of payment, provided that if on the judicial review the defendant prevails or if the review proceeding is dismissed the automatic suspension of license shall become effective at the expiration of ten days after the date of the judgment on review or the dismissal of the review unless prior thereto the judgment of the court has been satisfied.

§ 15. Service of notices or orders or any process with respect to complaints, investigations, hearings and proceedings before the Department hereunder may be made upon any person upon whom a summons might be served as in civil cases and such service may be made personally or by registered mail. Every order of the Department shall be served upon each person affected thereby either by personal delivery of a certified copy thereof or by mailing a certified copy thereof, postage prepaid.

§ 16. Appeals from all final orders and judgments entered by a Circuit or Superior Court in any proceeding to reverse, vacate or modify any determination, finding or order of the Department, may be taken directly to the Supreme Court by either party

to the proceeding and shall be governed by the rules applying to other civil cases appealed to the Supreme Court.

In all cases where proceedings are instituted to review a finding, determination or order of the Department, or where the Department is party to any proceeding in any court of record, the Attorney General shall appear for and represent the Department.

§ 17. Every commission merchant, dealer and broker shall keep such accounts, records and memoranda as will fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise.

In the investigation of complaints under this Act, the Department or any employee thereof designated by the Director, shall have the right to inspect such accounts, records and memoranda of any commission merchant, dealer or broker as may be material for the determination of any such complaint.

§ 18. The Director or any employee of the Department designated by him for such purpose may hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, receive evidence and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this Act. In case of the refusal of any person to comply with any subpoena or on the refusal of a



witness to testify to any matter regarding which he lawfully may be interrogated hereunder, the judge of any Circuit or Superior Court of the county in which such investigation or hearing is being conducted may, on the application of the Director or the employee of the Department designated by the Director to conduct such investigation or hearing, compel obedience by proceedings as for contempt as in the case of disobedience to an order of such court.

§ 19. Each officer who serves any subpoena hereunder shall receive the same fees as are provided by law for sheriffs serving summons in civil cases and each witness who appears in obedience to a subpoena before the Director or any employee of the Department designated by the Director shall receive for his attendance the same fees and mileage as are provided for witnesses in civil cases in the Circuit Courts, which fees shall be audited and paid upon the presentation of proper vouchers approved by the Director, or any employee of the Department designated for such purpose. Said fees shall be paid by the Department in case they are incurred pursuant to any investigation undertaken by it, but if incurred in connection with or pursuant to any hearing conducted hereunder, shall be taxed as costs and paid by the party thereto against whom the decision or finding of the Department is made, in like manner as costs are taxed and recovered in civil suits in courts of record of this State.

§ 20. No person shall be excused from attending, testifying, answering any lawful inquiry or producing any documentary evidence before the Director or any employee of the Department designated by the Director in obedience to a subpoena of the Director or any such designated employee in any cause or proceeding based upon or growing out of any alleged violation of this Act upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, under oath, to testify or produce evidence, documentary or otherwise, before the Director or such designated employee in obedience to the subpoena of the Director or any such designated employee in such cause or proceeding; provided that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§ 21. The Department shall have power and authority to adopt and enforce all rules, regulations or orders necessary to carry out and administer the provisions of this Act.

§ 22. In order to correlate the administration of this Act with the administration of the Perishable Agricultural Commodities

Act of 1930, enacted by the Congress of the United States, and in order to secure uniform regulation of the marketing of perishable agricultural commodities, the Department is authorized and empowered to confer and co-operate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture, for the effectuation of the purposes of this Act.

§ 23. No provisions of this Act shall apply; or be deemed to apply to foreign or interstate commerce excepting insofar as may be permitted by the constitution of the United States, the Acts of Congress and the treaties made thereunder, *nor to transactions subject to the provisions of the "Perishable Agricultural Commodities Act, 1930"*.

§ 24. Any person who shall violate any provision of this Act or any rule or regulation of the Department issued hereunder shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00).

Additional Copies of This Pamphlet May Be  
Secured from

DIVISION OF MARKETS  
ILLINOIS STATE FAIR GROUNDS  
POST OFFICE BOX 1451  
SPRINGFIELD, ILLINOIS



7 (26205)









